

App. No.: 09/917,205
Art Unit: 2875**Remarks**

Applicants wish to express their appreciation for the Examiner's indication of allowable subject matter, in which claims 43-45 are allowable. Claims 27-45 remain pending in the present application. Reconsideration of the present application is respectfully requested.

Response to Objection to the Specification:

The Office Action objected to the specification as failing to provide proper antecedent basis for the claimed subject matter of claim 27. Applicants respectfully traverse this objection and request that this objection be withdrawn.

The specification and drawings satisfy the requirement to provide proper antecedent basis as specified in 37 CFR 1.75(d)(1). For example, Figs. 28-32 illustrate an embodiment, which is described in detail in the Summary section and on p. 22, line 1 through p. 24, line 12 of the substitute specification that was filed on October 16, 2002.

This particular embodiment includes a body 818, shown in Fig. 30, generally forming a base. A shaped channel 820 generally forms a lamp channel. Contact clips 816 generally form contact members, in which contact fingers 868 generally form a first portion of the contact clips and a tongue 860 generally forms a second portion of the contact clips. A retention plug 814 generally forms a retention piece. If required by the Examiner, the undersigned would be pleased to provide amendments to the specification linking these exemplary features to the terminology in the claims.

Response to 35 U.S.C. 102 Rejections:***I. Mouchi (U.S. Patent No. 4,676,567)***

Claims 27 and 31 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Mouchi*. The Office Action alleges that these claims include "intended use" language that has been given very little patentable weight. Regarding claim interpretation, Applicants respectfully assert that such functional limitations in the claims cannot simply be ignored, but every limitation must be

App. No.: 09/917,205
Art Unit: 2875

considered. See MPEP 2173.05(g). (A functional limitation is an attempt to define something by what it does, rather than by what it is. Functional language does not, in and of itself, render a claim improper. A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it conveys to a person of ordinary skill in the pertinent art in the context in which it is used.) See also *R.A.C.C. Industries v. Stun-Tech Inc.*, 49 USPQ2d 1793, 1796-97 (Fed. Cir. 1998) ("adapted for concealment" interpreted as functional language requiring that an apparatus possess the capability of performing the recited function).

Mouchi does not disclose, either explicitly or implicitly, the functional language in independent claim 27. For example, claim 27 includes a base having a **"lamp channel for receiving a lamp."** The Office Action alleges that *Mouchi* discloses a base 22 having a lamp channel for receiving a lamp. However, *Mouchi* actually discloses a track 22 with a longitudinal opening. Although *Mouchi's* track 22 may include an opening, this opening does not receive a lamp. Instead, this channel actually receives portions of the electrical connector 11. Furthermore, there is no suggestion in *Mouchi* that such a track is capable of receiving a lamp.

In addition, claim 27 further recites an electrically conductive contact member having a first portion **"arranged in the lamp channel for contacting the lamp."** The Office Action alleges that a first portion of the *Mouchi* contact member 8 or 9 is arranged in the lamp channel for contacting the lamp. However, the portions of *Mouchi's* contact members 8 and 9 that are arranged in the track opening do not contact a lamp. In fact, with these portions of the contact members in the track's opening, there is even less space in the track opening for receiving a lamp, as mentioned above. Since a lamp could not physically be received in *Mouchi's* track opening, *Mouchi* actually teaches away from the claimed contact member 1) arranged in the lamp channel and 2) for contacting a lamp.

As the Office Action correctly notes in the "Response to Arguments" section: "[i]f the prior art structure is capable of performing the intended use, then

App. No.: 09/917,205
Art Unit: 2875

it meets the claim..." However, as noted above, *Mouchi* does not perform the functional limitations, is incapable of performing them, even when modified as suggested by the Examiner, and therefore does not meet the claim limitations. For at least these reasons, claim 27 is believed to be allowable over *Mouchi*.

It is further believed that dependent claim 31 is allowable for at least the reason that this claim depends from allowable independent claim 27.

II. *Glass (U.S. Patent No. 4,190,309)*

Claims 27-42 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Glass*. Once again, the Office Action alleges that "intended use" language is recited in the claims and has been given very little patentable weight. However, as noted above, functional limitations in the claims must be evaluated and considered, just like any other limitation of the claim, for what it conveys to a person of ordinary skill in the pertinent art in the context in which it is used.

Claim 27 recites a "***lamp channel for receiving a lamp.***" The Office Action alleges that *Glass* discloses a base 34 having a lamp channel for receiving a lamp. However, *Glass* actually discloses a track 12 having a T-shaped channel with side walls 32 and 34. Instead of receiving a lamp, *Glass*'s channel receives a cross bar 56. In fact, any lamp in the *Glass* device would necessarily be received in the lamp fixture 16, which is positioned a distance from the track 12 (see Fig. 1) and is connected to the track 12 through adjustable lighting fixture 14.

Claim 27 further recites that the first portion of the contact member is "***arranged in the lamp channel for contacting the lamp.***" The Examiner alleges that *Glass* discloses such a feature. However, *Glass* actually discloses insulated wires 62 and 64, having first portions that appear to be located within the T-shaped channel. The first portions of *Glass*'s wires 62 and 64, arranged in the channel, do not contact a lamp. Instead, the wires 62 and 64 appear to be inserted in the channel for making contact with the conductor strips 38 and 40. Not only does *Glass* fail to teach that these wires 62 and 64 contact a lamp, but no such motivation is suggested in the reference for modifying the portions of the

App. No.: 09/917,205
Art Unit: 2875

wires in the channel so that the wires are capable of contacting a lamp. In light of at least these distinctions between claim 27 and the cited references, Applicants request that the rejection of claim 27 be withdrawn.

Independent claim 35 includes **"means, having a lamp channel, for receiving a lamp within the lamp channel."** The Office Action does not specifically address this claim, but seems to suggest that *Glass* discloses a base 34 having a lamp channel for receiving a lamp. Actually, as mentioned above, *Glass* discloses a track having a T-shaped channel. The track of *Glass* receives a cross bar 56, but does not receive a lamp within a lamp channel.

Claim 35 further recites **"means for contacting the lamp in the lamp channel and for removably contacting an electrical conductor in the track frame."** Contrary to the suggestion in the Office Action that *Glass* includes such a feature, *Glass* actually provides wires 62 and 64 that appear to contact the conductor strips 38 and 40 in the T-shaped channel. The wires then pass over the top of the cross bar and down through the hollow portion of the post. *Glass* does not provide means for contacting the lamp in the lamp channel and for removably contacting an electrical conductor in the track frame. Therefore, Applicants contend that claim 35 is allowable over *Glass* for at least these reasons and that the rejection should be withdrawn.

It is believed that dependent claims 28-34 and 36-42 are allowable for at least the reason that these claims dependent from allowable independent claims 27 and 35.

III. Nieminen (U.S. Patent No. 6,203,339)

Claims 27-33 and 35-41 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Nieminen*. The Office Action alleges that *Nieminen* discloses a base 22 having a lamp channel for receiving a lamp. Actually, *Nieminen* discloses a track 22 having a channel 30 for receiving an adapter. The channel 30 does not receive a lamp.

Without a lamp that is receivable in the channel 30 of *Nieminen's* track 22, the first portions of *Nieminen's* contacts 16 and 18, arranged in the channel 30,

App. No.: 09/917,205
Art Unit: 2875

do not and cannot contact a lamp, as claimed. For at least these reasons, Applicants believe that claims 27 and 35 of the present application are allowable over *Nieminen*. It is further believed that dependent claims 28-33 and 36-41 are allowable for at least the reason that these claims depend from allowable independent claims 27 and 35.

Conclusion

If there are any questions concerning this response, or the application in general, then the Examiner is urged to contact the undersigned by telephone in order to expedite prosecution.

Respectfully submitted,

Date: September 30, 2003

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